

## **FISCAL NOTE**

### **SB 633 - HB 1803**

April 5, 2007

**SUMMARY OF BILL:** Increases the material required to be posted on the website of the Department of Environment and Conservation. Such items include: notices of violation, director's orders, and commissioner's orders, notices of intent to appeal and drafts of agreed orders. Authorizes the Commissioner of the Department of Environment and Conservation to issue stop work orders for violations of the Water Quality Control Act (WQCA). Requires the Commissioner to issue such orders in certain circumstance. Creates a tiered permitting system for water pollution permits based upon the applicants history with the department. Provides for mandatory penalties for violations of the WQCA. Creates a dedicated fund to which all monetary penalties for violations of the WQCA would be allocated for the purpose of funding salaries and benefits for enforcement personnel. Increases the mandatory penalties for violations of the WQCA. Requires the department to develop a cost list for expenses related to the monitoring of compliance with WQCA. Requires revenue from increased penalties to be allocated to enforcement until the department achieves a ratio of one enforcement officer per 100 active sites under the WQCA.

#### **ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$15,000,000/Recurring  
\$1,333,000/One-Time  
Increase State Revenues – Exceeds \$10,000,000**

**Other Fiscal Impact – T.C.A. §68-203-104(d) stipulates that fee revenue to the department through the Environmental Protection Fund must meet a particular ratio in proportion to general fund appropriations to the department. The Department of Finance and Administration is responsible for such calculation. T.C.A. §68-203-101(b)(1) includes all fees, civil penalties and damages as part of the Environmental Protection Fund. According to information obtained by staff, historically the Department of Finance and Administration includes revenue from penalties in the ratio calculation described above. Therefore, the increased penalty revenue derived from the provisions of the bill will result in a disproportionate ratio of fee and penalty revenue as compared to general fund appropriations according to the way it has historically been calculated. Therefore, if**

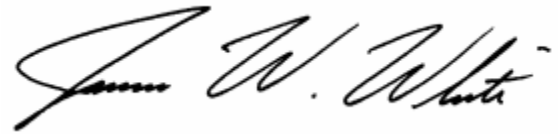
**the provisions of the bill are carried out, it may result in significant additional general fund appropriations in order to maintain such ratio.**

Assumptions:

- The department would require 222 new environmental specialists to carry out the provisions of the bill at an approximate recurring cost of \$65,000 per position for salary, benefits, and related supplies.
- The department would require four new attorneys at an approximate recurring cost of \$72,125 per position for salary, benefits, and related supplies.
- The department would require one additional web developer at an approximate recurring cost of \$92,500 for salary, benefits, and related supplies.
- The department would require four additional accounting positions at an approximate recurring cost of \$40,000 per position for salary, benefits and related supplies.
- One-time expenditures of approximately \$1,312,000 for computer hardware and software plus landscaping for each of the new employees required by the department.
- One-time expenditures of approximately \$21,000 for software changes required by the department.
- During the past year the department issued 1,223 notices of violation, 139 director's orders and five commissioner's orders all of which would have to be converted to PDF files and maintained on the department's website.
- 3,500 sites subject to the WQCA permitted annually.
- 60% (2,100) of such sites receive a stop work order due to the provisions of the bill.
- Up to 10 additional site visits per year per site based upon the enforcement requirements of the bill.
- According to a search of the department's current database, 92.4% (3,234) of all permit applicants each year would be classified as first-time applicants which would result in such applicants being required to obtain an individual probationary permit.
- An additional 720 bonds posted by applicants each year.
- FY06 penalty collections of \$700,000.
- 15,000 active permit sites.
- The provisions of the bill stipulate that penalty revenues derived from section 12 of the bill must be structured in a manner that equals the required expenditures for enforcement staff.
- Any increase in state expenditures for the department to develop the required cost list is estimated to be not significant.

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized "J" and "W".

James W. White, Executive Director